IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10562 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDUBHAI AMBARAM SAGAR - Petitioner(s)

Versus

DISTRICT DEVELOPMENT OFFICER & 2 - Respondent(s)

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Appearance :

MR JV JAPEE for Petitioner No(s).: 1.
MR MANISH J PATEL for Respondent No(s).: 1.
MR MR MENGDEY, AGP for Respondent No(s).: 2.

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CORAM :HON'BLE MR JUSTICE AKIL KURESHI

Date : 21/06/2005

ORAL JUDGMENT

Rule. Learned advocate Mr.Manish Patel waives service of notice of rule on behalf of respondent No.1 and learned AGP Mr.Mengdey waives service of notice of rule on behalf of respondent No.2. At the joint request of the learned

advocates appearing for the parties, the petition is taken up for final disposal today.

2. The petitioner who is the Sarpanch of Vadali Gram Panchayat was issued a show cause notice on 29.12.03 why he should not be removed from the said position under the provisions of section 57(1) of the Gujarat Panchayats Act. The District Development Officer upon conclusion of the proceedings passed an order dated 6.11.04 under section 57(1) of the Gujarat Panchayats Act ordering removal of the petitioner from the post of Sarpanch, Vadali Gram Panchayat. The petitioner challenged the said order before the Additional Development Commissioner, Government of Gujarat. The said authority by the order dated 30th April, 2005 remanded the proceedings back to the District Development Officer. The petitioner has therefore challenged the order dated 30th April 2005 passed by the Additional Development Commissioner and objected to the proceedings being remanded.

3. On behalf of the petitioner, learned advocate Shri Japee submitted that no useful purpose will be served in remanding the matter back to the District Development Officer and the Additional Development Commissioner should have considered the submissions of the petitioner

and should have decided the appeal on merits.

4. Having perused the order passed by the Additional Development Commissioner and having heard the learned advocates appearing for the parties, I accept the contention of the learned advocate for the petitioner Shri Japee that the contentions raised by the petitioner were purely legal contentions and could have and ought to have decided by the Additional Development Commissioner and remanding the proceedings back to the District Development Officer would serve no useful purpose. In so far as the order dated 30th April, 2005 seeks to remand the proceedings to the District Development Officer is concerned, the same is required to be quashed and set aside.

5. In view of the above discussion, the impugned order dated 30th April 2005 passed by the Additional Development Commissioner is set aside and the proceedings are remanded to the Additional Development Commissioner for his decision on merits. Learned advocate for the petitioner pointed out that by virtue of the stay order dated 9.11.04 passed by the Additional Development Commissioner, the petitioner had continued to enjoy the post of Sarpanch, Vadali Gram Panchayat during the pendency of the appeal proceedings and thereafter by virtue of the final order passed by the

Additional Development Commissioner, the petitioner continues to hold the said position. During the pendency of the remanded appellate proceedings before the Additional Development Commissioner, therefore, the petitioner shall continue as Sarpanch of Vadali Gram Panchayat.

6. With the above directions, the petition is disposed of. Rule is made absolute accordingly with no order as to costs.

Direct service.

(Akil Kureshi, J.)

(vjn)